*The Hon'ble Sri Justice V.V.S.RAO

+W.P.No.8962 of 1995 (and batch)

%12.8.2004

£M/s. Hind Re-rolling Industries

… Petitioner

Vs.

$A.P.S.E.B. … Respondents

!For the petitioner … Mr.D.V.Nagarjuna Babu

^For Respondents … Mr.N.Subba Reddy

<Gist:

>Head Notes:

? 1. AIR 1977 All 499

2. 1997 (5) SCC 517

3. AIR 1995 SC 1553

4. AIR 1998 SC 1715

5. 2001 (5) ALD 732 (FB)

6. AIR 1986 SC 1999

7. AIR 1993 SC 2005

8. 2000 (1) ALD 49

9. AIR 1986 SC 515

10. AIR 1963 SC 1128

11. AIR 1968 SC 991

12. AIR 1991 SC 1473

13. AIR 1991 AP 141

14.1997 (5) SCC 772

15.1998 (1) ALD 543

16. 1998 (3) ALT 775

17. AIR 1990 AP 58

18. (1976) 2 SCC 167

19. (1983) 4 SCC 508

20. AIR 1984 SC 657

21. AIR 1987 SC 2186

22. (1988) 2 SCC 181

23. (1990) 1 SCC 731

24 (1990) 3 SCC 223

25. (1991) 3 SCC 299

26. (1997) 5 SCC 289

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELVTH DAY OF AUGUST

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NOs.8962 OF 1995, 13628, 19118 of 1996, 17841, 35686, 35907 of 1998, 5694, 7814, 14628 and

15353 of 1999

W.P.No.8962 of 1995:

Between:

M/s.Hind Re-rolling Industries

Sanathnagar, Hyderabad, rep. by its

Managing Partner, Sri Preetam Singh

…. **PETITIONER**

AND

1. The A.P.S.E.B., Vidyut Soudha, Somajiguda,

Hyderabad, rep. by its Member Secretary

2. The Superintending Engineer, APSEB

Operation Circle, Secunderabad Circle

Mint Compound, Hyderabad.

3. The Divisional Electrical Engineer,

Operation Circle, City-IV, Vengalraonagar,

Hyderabad.

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Board in demanding to pay Rs.4,41,000/- towards fixed KVA charges for the release of power supply is highly illegal, arbitrary, unjust, void.

Counsel for the Petitioner: Mr.D.V.Nagarjuna Babu

Counsel for the Respondents 1 to 3: Mr.N.Subba Reddy,

Representing Ms.M.Vinobha Devi (SC for A.P.Transco)

WRIT PETITION NO.13628 OF 1996

Between:

Lamba Trading Company,

221, Bloton Road, Lamba Estate,

Secunderabad – 500 003, rep. by its

General Manager, Sri P.J.Jagender

….PETITIONER

And

1. The A.P.State Electricity Board, rep. by its

Chairman, Vidyut Soudha, Somajiguda, Hyderabad.

2. The Superintending Engineer, Electrical Operation,

Hyderabad Circle, Mint Compound, APSEB, Hyderabad.

3. The Chief Engineer, Electriicity, Commercial, APSEB,

Vidyut Soudha, Hyderabad

… RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of the respondents in demanding Rs.74,000/- towards development charges from the petitioner as highly illegal, arbitrary, unjust and improper if necessary by declaring the clause 8 of the terms and conditions of supply as highly illegal, improper and contrary to Schedule-VI of the Indian Electricity Act, 1910.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the respondents 1 to 3: MR. N.SUBBA REDDY,

REPRESENTING MS. M.VINOBHA DEVI (SC FOR AP.TRANSCO)

WRIT PETITIO NO.19118 OF 1996

Between:

M/s. Happy Home Castle,

11-5-8, Nampally, Hyderabad

rep. bty its Managing Partner, Dr.Shaiudin Ahmed

…PETITIONER

And

1. The A.P.State Electricity Board,

rep. by its Chairman, Vidyut Soudha,

Somajiguda, Hyderabad.

2. The Chief Engineer (Electricity),

Metropolitan Zone, APSEB, Mint Compound,

Hyderabad.

3. The Superintending Engineer, Operation Circle,

Mint Compound, Hyderabad.

4. The Divisional Engineer (Electrical),

Operation, City-I, Division, Mint Compound, Hyderabad.

… RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in demanding Rs.1,21,055/- towards development charges from the petitioner as highly illegal, arbitrary, unjust and improper if necessary by declaring the clause 8 of the terms and conditions of

supply as highly illegal, improper and contrary to Schedule-VI of the Indian Electricity Act, 1910.

Counsel for the Petitioner: MR. D.NAGARJUNA BABU

Counsel for the Respondents 1 to 4: MR. N.SUBBA REDDY,

REPRESENTING MS.M.VINOBHA DEVI (SC FOR AP. TRANSCO)

WRIT PETITION NO.17841 OF 1998

Between:

M/s.Kamineni Steel Re-Rolling Mills (P) Ltd.

2-4-97/C, Third Flor, Ramgopalpet,

Secunderabad, rep. by its Director Maheschand Agarwal

… PETITIONER

And

1. A.P.State Electricity Board, represented by its

Secretary, Vidyut Soudha, Somajiguda, Hyderbaad.

2. The Superintending Engineer, Operation, APSEB,

Sangareddy, Medak District.

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring the collection of development charges pursuant to the Lr.No.CEE/Coml/BL-A1/F.No.MDK-106/D.No.328/94, dt.19.10.1994 of the 1st respondent for the release of additional load of 500 KVA from the petitioner as highly illegal, arbitrary, unjust and unauthroised by declaring clause 8 of the Terms and Conditions of Supply as illegal, unjust, improper and contrary to Clause-VI of the Schedule to Indian Electricity Act, 1910.

Counsel for the Petitioner: MR. D.V.NAGARJUNA BABU

Counsel for the Respondents 1 and 2: MR. N.SUBBA REDDY,

REPRESENTING MS. M.VINOBHA DEVI (SC FOR AP.TRANSCO)

WRIT PETITION NO.35686 OF 1998

Between:

M/s.Sree Hariom Steel, Yenkepally (V), Moinabad (M),

Ranga Reddy District, rep. by its Proprietor, R.M.Agarwal

… PETITIONER

1. A.P.State Electricity Board,

rep. by its Secretary, Vidyut Soudha, Somajiguda,

Hyderabad.

2. The Assistant Divisional Engineer, Operation

APSEB, Ibrahimbagh, Hyderabad.

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring the collection of Development Charges of Rs.40,000/- pursuant to the Lr.No.ADE/OP/I'bagh/D.No.416, dt.7.12.1998 of the 2nd respondent as highly illegal, arbitrary, unjust and unauthroised by declaring Clause 8 of Terms and Conditions of Supply, as illegal, unjust, improper and contrary to the Clause 8 of Terms and Conditions of Supply, as illegal, unjust, improper and contrary to the Clause-VI, of the Schedule to Indian Electricity Act, 1910.

Counsel for the Petitioner: MR. D.V.NAGARJUNA BABU

Counsel for the Respondents 1 and 2: MR.N.SUBBA REDDY,

REPRESENTING MS.M.VINOBHA DEVI (SC FOR AP.TRANSCO)

WRIT PETITION NO.35907 OF 1998

Between:

M/s. Arogyamatha Formation House,

1/1885, Church Compound, Station Road,

Cuddapah, rep. by its Sister Superior, Sr.Catherine.M.

…PETITIONER

1. A.P.State Electricity Board, rep. by its

Secretary, Vidyut Soudha, Somajiguda, Hyderabad.

2. The Chief Engineer,

A.P.S.E.B. Vidyut Bhavan, Prakash Nagar, Cuddapah.

3. The Asst. Divisional Engineer, Operation,

Sub-Division, Cuddapah.

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring the Lr.No.ADE/O/CDP/Se/F. /D. No.1054/98, dt.18.11.1998 of the third respondent as highly illegal, arbitrary, unjust and unauthroised by declaring Clause 8 of the Terms and Conditions of Supply as illegal, unjust, improper and contrary to the Clause-VI of the Schedule to Indian Electricity Act, 1910.

Counsel for the Petitioner: MR. D.V.NAGARJUNA BABU

Counsel for the Respondents 1 to 3: MR. N.SUBBA REDDY,

REPRESENTING MS.M.VINOBHA DEVI (SC FOR AP.TRANSCO)

WRIT PETITION NO.5694 OF 1999

Between:

1. Gulam Jeelani, S/o. Gulam Nabi,

R/o.23-2-199, Moghalpura, Hyderabad.

2. Abdul Rahman, S/o.Abdul Aziz,

R/o.23-2-12/1, Moghalpura, Hyderbad.

3. Najamunnissa Begum, W/o.Shaik Mehmood,

Moghalpura, Hyderabad.

4. Mohd. Ali Taher, S/o.Mohd. Fareed Taher,

Moghalpura, Hyderabad.

...PETITIONERS

And

1. The Transmission Corporation of

Andhra Pradesh Ltd., Vidyut Soudha, Somajiguda,

Hyderabad, rep. by its Managing Director.

2. Chief Engineer, City Zone, Transco, Charminar,

Hyderabad.

3. The Assistant Divisional Engineer,

District IX, Chairminar Sub-Division,

City III, Transco, Charminar, Hyderabad.

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring Condition No.s8 and 40.3 of the terms and conditions of supply of Electrical energy by the A.P.S.E.B. and the letters dt.2.2.1999, calling upon the petitioners to pay Development Charges and Additional Consumption Deposit in respect of their service connections bearing Nos.x2-5364, x2-6527, x2-6762 and x2-8834 respectively as arbitrary, illegal, without jurisdiction, contrary to the provisions of Indian Electricity Act of 1910 and the Electricity (Supply) Act, 1948 and violative of fundamental and constitutional rights guaranteed to the petitioners under Articles 14, 19(1)(g), 21 and 300-A of the Constitution of India and violative of principles of natural justice and issue a consequential direction to the respondents not to collect the Development Charges and Additional Consumption Deposits.

Counsel for the Petitioners: MR. S. SRINIVASA REDDY

Counsel for the Respondents 1 to 3: MR.N. SUBBA REDDY,

REPRESENTING MS.M.VINOBHA DEVI (SC FOR AP.TRANSCO)

WRIT PETITION NO.7814 OF 1999

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Between:

M/s. Ahmed and Co.,

S.No.264 and 265, Gaganpahad Village,

Rajendranagar (M), Ranga Reddy District,

Rep. by its Managing Director, Anwar Ali Khan

…PETITIONERS

And

1. Transmission Corporation of A.P. Ltd.,

rep. by its M.D., Vidyut Soudha,

Somajiguda, Hyderabad.

2. The Superintending Engineer, Operation,

Ranga Reddy Circle, A.P.Transco, Hyderabad.

3. The Chief Engineer, Metro Zone, TRANSCO,

Mint Compound, Hyderabad.

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring (i) the collection of Development Charges of Rs.2,25,000/- pursuant to the Lr.No.SE/O/RRC/Coml./D.R.No.514/98-99, D.No.6535, dt.27.3.1999 of the 2nd respondent as highly illegal, arbitrary, unjust and unauthroised by declaring Clause 8 of the Terms and Conditions of Supply and (ii) the action of the respondents in requiring the petitioner to install the transformer of its own for the release of power supply as illegal, unjust, improper and contrary to the Clause-VI of the Schedule to Indian Electricity Act, 1910.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents 1 to 3: MR.N.SUBBA REDDY,

REPRESENTING MS.M.VINOBHA DEVI (SC FOR AP.TRANSCO)

WRIT PETITION NO.14628 OF 1999

Between:

M/s. Mukka Industries, Binny Modern Rice Mill,

Jammijunta Village and Mandal,

Karimnagar District, rep. by its

Partner, M.Jitendra Gupta

…PETITIONER

And

1. Transmission Corporation of A.P. Ltd.,

rep. by its Managing Director,

Vidyut Soudha, Somajiguda, Hyderabad.

2. The Superintending Engineer,

Operation Circle, A.P., (Transco)

Karimnagar, Karimnagar Dist.

3. The Divisional Engineer,

Operation Circle, A.P.Transco,

Huzurabad, Karimnagar District.

4. The Assistant Divisional Engineer,

Operation, A.P.Transco, Jammikunta,

Karimnagar District.

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring conditions (iii) and (iv) stipulated in respect of L.T.Category-III (B) Industrial Operational Category in B.P.Ms.No.62 (Oppnl. & Comml.) dated 28.12.1998 and Clause-8 of the Terms and Conditions of Supply of A.P.S.E.B. as highly illegal, arbitrary, unjust and without jurisdiction and consequently set aside the letter No.SE/OP/ANR/Comml./F.No.Docket/D.No.1221 dated 19.6.1999 of the 2nd respondent and the letter No.DEE-OP/HZB. Comml. F.D.No.1214/99 dated 3.7.1999 of the 3rd respondent as illegal, arbitrary, unjust, without jurisdiction and unauthorized.

Counsel for the petitioner: MR. D.V.NAGARJUNA BABU

Counsel for the Respondents 1 to 4: MR. N.SUBBA REDDY,

REPRESENTING MS.M.VINOBHA DEVI (SC FOR AP.TRANSCO)

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WRIT PETITION NO.15353 OF 1999

Between:

M/s.Sundar Steels & Alloys Pvt., Ltd., rep. by its

Executive Director, Madhusudhan Santhalia,

229 and 230, Bangalore Highway, Gaganpahad,

Ranga Reddy District.

…PETITIONER

And

1. Transmission Corporation of A.P. Ltd.,

rep. by its Managing Director, Vidyut Soudha,

Somajiguda, Hyderabad.

2. The Superintending Engineer,

Operation Circle, A.P.Transco, R.R.Circle, Mint Compound

Hyderabad.

3. The Divisional Engineer, Rural South, A.P.Transco

Saroornagar, Hyderabad.

…RESPONDETNS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in demanding the petitioner to pay development

charges/service line charges for restoration of its contracted maximum demand of 2100 KVA as highly illegal, arbitrary, unjust and void and consequently set aside the Clause 13 of Memo No.CE (Comml) A/1/Temp. deration/22/87-965 dated 20.9.1993

of the 1st respondent, as illegal, arbitrary and unjust.

Counsel for the Petitioner: MR. D.V.NARJUNA BABU

Counsel for the Respondents 1 to 3: MR. N.SUBBA REDDY,

REPRESENTING MS.M.VINOBHA DEVI (SC FOR AP.TRANSCO)

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NOs.8962 OF 1995; 13628 AND 19118 OF 1996; 17841, 35686 AND 35907 OF 1998; 5694, 7814, 14628, AND 15353 of 1999

COMMON ORDER:

In all these Writ Petitions, the petitioners are consumers of electricity supply by the respondents. In some cases, they are existing consumers and others are new consumers, who applied for service connection. The respondents while considering applications made by petitioners for supplying the electricity or for enhancing existing load, advised the petitioners to pay the estimated cost of necessary charges and service line charges to enable the respondents to consider the request of the petitioners. Insofar as the demand for payment of service line charges is concerned, the petitioners have no grievance. The respondents while giving estimate of the cost involved for giving power supply also imposed development charges. In the case of M/s.Hind Re-Rolling Industries, petitioner in Writ Petition No.8962 of 1995, the

Divisional Electrical Engineer informed the petitioner that an amount of Rs.5,53,400/- (Rupees five lakhs fifty three thousand and four hundred only), including an amount of Rs.4,41,000/- (Rupees four lakhs forty one thousand only) towards fixed KVA charges @ Rs.900/- (Rupees nine hundred only) per KVA is payable by the petitioner for availing power supply. In other cases also the petitioners were asked to pay development charges. Aggrieved by which all these Writ Petitions are filed. In W.P.Nos.13628 and 19118 of 1996; 17841, 35686 and 35907 of 1998; and 5694, 7814 and 14628 of 1999, Clause 8 of the Revised Terms and conditions of supply of Electricity is challenged as being *ultra vires*. As the core question involved in these Writ Petitions is common, it is expedient to dispose of all the Writ Petitions by common order.

Counter affidavits have been filed in W.P.Nos.8962 of 1995, 35686 of 1998, 5694, 7814 and 14628 of 1999. In the counter affidavit filed in W.P.No.8962 of 1995 by the Divisional Electrical Engineer (Operations) Hyderabad. It is stated that M/s.Hind Re-Rolling Industries was initially given power supply in 1967 for a Contracted Maximum Demand (CMD) of 350 KVA. The agreement was terminated on 1.5.1979 and a fresh supply with CMD of 200 KVA was given in 1980. The agreement was again terminated on 28.7.1993 and metering equipment and other infrastructure was dismantled in March, 1994. The petitioner has not paid any cost of service line in 1967. In 1995, the petitioner approached for release of supply afresh for CMD of 490 KVA with connected load of 1000 Horse Power (HP). An estimate for a sum of Rs.1,76,200/- (Rupees one lakh seventy six thousand and two hundred only) towards service line charges, including a sum of Rs.63,376/- (Rupees sixty three thousand three hundred and seventy six only) towards metering equipment and CTPT was prepared. In relation to the same, the petitioner was asked to pay development charges of Rs.4,41,000/- (Rupees four lakhs forty one thousand only) @ Rs.900/- (Rupees nine hundred only) per KVA. Said estimate contains costs of works which are essential for carrying out the works and do not include the costs of existing line. The development charges were calculated in accordance with B.P.Ms.No.627, dt.14.12.1994, which was issued in exercise of powers under Section 49 of the Electricity (Supply) Act, 1948 (hereafter called, the Electricity Supply Act). It is also stated in the counter affidavit that development charges are intended to meet part of the cost of extension of works as the surplus available from the tariff revenue is not adequate to carry out capital works for laying EHT, HT, LT lines and establishment of extra high tension and 33 KVA sub-stations. The agreement with the petitioner was terminated in 1993 and therefore he is considered as a new consumer governed by B.P.Ms.No.627, dt.14.12.1994. The amount of development charges is a statutory liability and it is competent for the Board to impose the same under Section 49 of the Electricity Supply Act.

Learned counsel for the petitioners, Sri Duba V.Nagarjuna Babu submits that Condition No.8 of Revised Terms and Conditions (hereafter called, the conditions of supply) is *ultra vires* the power of the Electricity Board under Section 49 of the Electricity Supply Act. The concept of development charges has not been defined either in the Electricity Act 1910 (for short, the Electricity Act) or in the Electricity Supply Act. As per the scheme of Electricity Act, it is the duty of the Board to bear the

charges for transmission line and in the absence of any procedure, the Board cannot impose development charges, especially when service line charges are collected from the consumer. Alternatively, learned counsel for the petitioners submits that even if the Board has such power to collect development charges, the same cannot be collected from HT consumers, without disclosure as to what is the development required justifying such levy. Learned counsel for the petitioners placed reliance on **U.P.State Electricity Board v. Lakshmi Devi, Agricultural Market Committee v. Shalimar Chemical Works Ltd., Orissa Stte Electricity Board v. M/s.IPI Steel Limited, M/s.Hyderabad Vanaspathi Ltd. v. A.P.State Electricity Board,** and **Klayman Porcelains Ltd. v. Superintending Engineer, APSEB.**

Learned Counsel for the A.P.Transmission Corporation, Sri N.Subba Reddy, submits that the Electricity Board has power to adjust its tariffs. While so doing, it is always permissible for the Board to levy development charges, which are also provided for by the agreement. He would submits that there is no undisclosed or vague element in the development charges and as per Condition No.45 of conditions of supply every consumer is deemed to have full knowledge of the provisions of the Electricity Act, Electricity Supply Act and other Rules and Regulations, and the impugned levy was estimated in accordance with revised conditions of supply. Sri Subba Reddy placed strong reliance on decisions reported i n **K.S.E.Board v. M/s.S.N.Govinda Prabhu & Bros.** (hereafter called, **Govinda Prabhu case**) **, Ferro Alloys Corpn. Ltd. v. A.P.State Electricity Board, and KCP Ltd., Guntur v. A.P.State Electricity Board**.

As indicated earlier, the core question is whether condition No.8 is *ultra vires* and whether it was competent for the Board to levy development charges in addition to service line charges ?

It would be necessary to refer to certain provisions of the Electricity Act as well as Electricity Supply Act. The Electricity Board established under Section 5 of the Electricity Supply Act is deemed to be a licensee under the Electricity Act. By reason of Sections 26 and 26A of the Electricity Supply Act, except certain provisions enumerated in proviso to Section 26 all other provisions of the Electricity Act are applicable to Electricity Board. Section 18 of the Electricity Supply Act reads as under:

18. General duties of the Board: - Subject to the provisions of this Act, the Board shall be charged with the following general duties, namely:

a. to arrange, in co-ordination with the Generating Company or Generating Companies, if any, operating in the State, for the supply of electricity that may be required within the State and for the transmission and distribution of the same, in the most efficient and economical manner with particular reference to those areas which are not for the time being supplied or adequately supplied with electricity:

b. to supply electricity as soon as practicable to a licensee or other person requiring such supply if the Board is competent under this Act so

to do.

c. to exercise such control in relation to the generation, distribution and utilisation of electricity within the State as is provided for by or under this Act;

d. to collect data on the demand for, and the use of, electricity and to formulate perspective plans in coordination with the Generating Company or Generating Companies, if any, operating in the State for he generation, transmission and supply of electricity within the State;

e. to prepare and carry out schemes for transmission, distribution and generally for promoting the use of electricity within the State; and

f. to operate the generating stations under its control in co-ordination with the Generating Company or Generating Companies, if any, operating in the State and with the Government or any other Board or agency having control over a power system.

The duties of the Electricity Board, *inter alia*, include the duty to prepare and carry out schemes for transmission, distribution and for promoting use of electricity in the State. The planning and execution of schemes for generating and transmitting electricity are entrusted to the Electricity Board. It is for this reason the Statute confers powers on Electricity Board under Sections 49 and 79 of the Electricity Supply Act. Section 49 of the Electricity Supply reads as under.

49. Provision for the sale of electricity by the Board to persons other than licensees: (1) Subject to the provisions of this Act and of regulations, if any made in this behalf, the Board may supply electricity to any person not being a licensee upon such terms and conditions as the Board thinks fit and may for the purposes of such supply frame uniform tariffs.

(2) In fixing the uniform tariffs, the Board shall have regard to all or any of the following factors, namely:

a. the nature of the supply and the purposes for which it is required;

b. The coordinated development of the supply and distribution of electricity within the State in the most efficient and economical manner, with particular reference to such development in areas not for the time being served or adequately served by the licensee;

c. the simplification and standardization of methods and rates of charges for such supplies;

d. the extension and cheapening of supplies of electricity to sparsely developed areas.

(3) Nothing in the foregoing provisions of this section shall derogate from the power of the Board, if it considers it necessary or expedient to fix different tariffs for the supply of electricity to any person not being a licensee, having regard to the geographical position of any area, the nature of the supply and purpose for which supply is required and any other relevant factors.

(4) In fixing the tariff and terms and conditions for the supply of electricity, the Board shall not show preference to any person.

The power to make regulations providing for all matters, like principles governing fixation of power tariff, principles governing supply of electricity are conferred on the Board under Section 79 of the Electricity Supply Act. Sub-section (2) of Section 49 of the Electricity Supply Act lays down broad principles for fixing tariffs. While fixing tariffs, the Board has to take into consideration the nature of supply, the simplification and standardization methods and rights of authorities, transmission and supply of cheap electricity to sparsely developed area and to carry out development, supply of electricity within the States in the most viable and economic manner with particular reference to such development in areas not for the time being served or adequately served by the licensee. Clauses (b) and (d) of sub-section (2) of Section 49 of the Electricity Supply Act have great relevance for the Board to while fixing tariffs. The costs involved for development, supply and distribution of electricity to remote areas with reference to development of remote areas is one of the criteria, which cannot be ignored while fixing the tariffs. Indeed, sub-section (3) of Section 49 of the Electricity Supply Act empowers the Board to fix different tariffs for the supply of electricity having regard to geographical position of any area, the nature of supply and purpose for which supply is required.

In so fixing tariffs, keeping in view planned development of remotest areas, the Board can always adjust tariffs from time to time. The power, however, is not un-channeled and un-controlled power. While so fixing tariffs, the Electricity Board cannot ignore Section 59 of the Electricity Supply Act and Sixth Schedule of the Electricity Supply Act. Section 59 of the Electricity Supply Act in mandatory terms requires the Electricity Board to regulate and govern finance in such a manner that there will be at least 3% surplus. Under Sixth Schedule, the Electricity Board shall have to adjust its charges for sale of electricity in such a manner that as far as possible the profit shall not exceed the amount of reasonable return. At the time of giving new power supply connection or enhancing existing power supply, if the amount of actual expenditure and/or the amount required for development of electricity elsewhere is not included, and every time it is increased, for these purposes, the Board would be violating provisions in Sixth schedule. Therefore, the Board is given power to adjust its tariffs keeping in view its duties under Section 18 of the Electricity Supply Act read with Sections 49, 59 and Sixth Schedule.

The learned counsel would not dispute or deny the above legal position. He would submit that it is always competent for the Board to levy and collect ascertainable amounts like service line charges, fuel cost adjustment charges (FAC) etc., which are definitely ascertainable, but undisclosed development charges cannot be ascertained and therefore they cannot be collected. Such calculation according to him is *ultra vires* the power of the Board. These submissions of the learned counsel for the petitioners are devoid of any merit.

Generation, transmission and supply of electricity and the transmission losses have serious financial implications and may in a given situation deny the effort of Board to

comply with Section 59 of the Electricity Supply Act. These are all matters which cannot be analyzed, assessed and valued in terms of certainty. For that matter, any planning for development can only contain broad parameters of such development of future, and the priorities of development change from time to time. Status quoism is an anathema to developmental planning and therefore it is always open to the Board to constantly change its priorities, adjust its finances and for so doing, adjust its tariffs.

The erstwhile Andhra Pradesh State Electricity Board, the immediate predecessor of A.P.Transmission Corporation promulgated terms and conditions of supply of electrical energy. These are made in exercise of powers made under Section 49 of the Electricity Supply Act and as held by the Courts have statutory force [See **Klayman Porcelains Ltd. v. Superintending Engineer, A.P.S.E.B**, **KCP Ltd., Guntur v. A.P.S.E.B, Ferro Alloys Corpn Ltd. v. A.P.S.E.B., M/s.Hyderabad Vanaspathi Ltd. v. A.P.State Electricity Board** (supra)]. The terms and conditions were revised from time to time and the revised terms and conditions of supply made vide B.P.Ms.No.690, dt.17.9.1975 apply to a person who desires to avail power supply, the existing consumers as well as to those who desire different categories of power supply. As per Condition Nos.3, 26 and 45 of the conditions of supply every consumer or prospective consumer is deemed to have full knowledge of the provisions of the Electricity Supply Act, the Regulations made from time to time and Conditions of Supply. These Conditions of Supply also require every consumer to pay service line charges (Condition No.7), development charges (Condition No.8), consumption deposits and additional consumption deposits (Condition No.28), at the time of availing supply as well as during subsistence of the agreement which a consumer shall have to execute in the prescribed form under condition No.26. These deposits, which are made at the time of making application under condition No.3, and also as and when required depending on the circumstances are in addition to the current consumption charges payable by a consumer as per the tariff rates fixed by the Board from time to time. No consumer can be heard to say that as tariff at the prescribed rates is being paid for the electricity consumed, he/she need not pay any other deposits. The supply of electricity is itself is subject to condition that a consumer making/paying various deposits as per the conditions of supply.

The Board amended Condition No.8 by B.P.Ms.No.337 dt.3.11.1993. Under condition No.8 the development charges are in addition to service line charges livable under condition No.7. Conditions Nos.7 and 8 read as under.

7. Service Line Charges:- The service line charges payable by the consumers for release of new and/or additional loads under Low Tension and High Tension supply shall be at the rates notified by Board from time to time. These charges shall be paid by the consumer in advance failing which, the works of extension of supply shall not be taken up. These charges are non-refundable.

8. Development Charges:- The amounts payable by the consumer towards development charges for release of new and additional loads under Low Tension and High Tension supply shall be at the rates notified by the Board from time to time. These charges shall be paid by the consumers in advance, failing which the works for extension of supply

shall not taken up. These charges are non-refundable.

A request for supply or additional supply of electrical energy must be made in Form Appendix-I. The consumer has to execute an agreement in Form Appendix-II in the case of LT consumer, and Form Appendix-III in the case of HT consumer. A clause is inserted in Appendix-I (application for supply) to the effect that the consumer agrees to pay the tariffs and miscellaneous and general charges prescribed by the Board. Clause (5) of the HT agreement of Appendix-III also is a covenant to the same effect. Further, the consumer is not only bound by the conditions of supply at the time of taking supply, but also the conditions that may be varied by the Board from time to time, as per clause (10) of the HT agreement. All this lead to an inference that development charges introduced with effect from 3.11.1993 by B.P.Ms.No.337, is not a new levy at all. A reference to B.P.Ms.No.627 dt.14.12.1994 would show that the same contains method and manner of calculating the development charges payable by the consumer for release of new and additional supply under LT and HT supply. Further, as seen from B.P.Ms.No.627, dt.14.12.1994 which is challenged in some of the Writ petitions, only a part of the cost of extension of works are calculated from the prospective consumers for whose benefit the works are executed. Therefore, the submission that the Board is entitled only to collect charges for service line and not transmission line is misconceived. The transmission or supply of energy to service line has to be necessarily correlated to transmission line, substation and production unit. The entire power system has a bearing on the design and structure of transmission lines, and service lines have bearing on the power system as a whole. Therefore, the Board came forward to collect part of capital cost for extension works as one time non-refundable development charges. There cannot be any objection for the same, because, as held by the Courts, it is always permissible for the Board to adjust its tariffs in one or more ways.

None of the petitioners have specifically challenged the method and manner of calculating development charges by the Board. Therefore, it is not necessary to decide the question whether the development charges were properly calculated or not. It is not even the case of petitioners that in the guise of levying development charges, the Board has fixed the entire liability for development on the petitioners. Therefore, it is presumed that in accordance with B.P.Ms.No.627, dt.14.12.1994, the Board has asked the petitioners who want to avail a new supply connection or enhancement of existing load to pay only a part of the cost involved for extension of works towards development charges. At this stage, it is proper to refer to some of the decisions rendered by the Hon'ble Supreme Court as well as this Court, which support the view of this Court.

During the past years the electricity consumers, especially extra high tension and high tension consumers challenged the decision of the Board to levy and collect various deposits under various heads. The same was challenged invariably on the grounds that the regulation or statutory decision of the Board is *ultra vires* and arbitrary. Indeed, as laid down by the Supreme Court in **I.E.Newspapers (Bombay)**

P. Ltd. v. Union of India a piece of Subordinate Legislation can be challenged before the Court on the ground that it is *ultra vires* and also on the ground that it is arbitrary (See paragraphs 73 to 77 of the said judgment). Be that as it is, as already mentioned, the Courts have rejected the submission that Electricity Boards' action in imposing or enhancing levies is *ultra vires*. In **Mysore State Electricity Board v. Bangalore Woolen Cottons Mills Ltd., M.S.E.B. v. Kalyan Borough Municipality Hindustan Zinc Ltd. v. A.P.S.E.B,** and **Goutham Solvents V. A.P.S.E.B,** the enhancement of tariff was justified. The Courts have justified imposing of tariff related additional charge in **Kanoria Chemicals v. U.P.S.E.B**, **Sri Rayalaseema R.S.Mills v. A.P.S.E.B**. The interest and additional charges on instalments was validated in **Venkateswara Rice Mill v. Superintending Engineer**. In all these cases, reliance was placed by the Courts on Section 49 Electricity Supply Act.

In **Govinda Prabhu** case (supra) the upward revision of tariff by Kerala Board was challenged in the High Court. The Full Bench of the Kerala High Court struck down such revision on the ground that Kerala Board acted outside the statutory authority by formulating price structure intended to yield sufficient revenue to upset, not merely the expenditure properly chargeable to the revenue account for the year as contemplated by Section 59 of the Electricity Supply Act, but also expenditure not so properly chargeable. On appeal the Supreme Court referred to Section 59 of the Electricity Supply Act as it existed on the Statute Book prior to 1978, as amended by Central Act No.23 of 1978 and as further amended by Central Act No.16 of 1983. It was observed that being a public utility monopoly undertaking, the Board cannot be driven by pure profit motive and though it is not the function of the Board to manage its affairs to earn maximum profit, but having ventured into the field of commerce, the Board cannot ignore business principles which are essential to public sector undertaking as a commercial venture. The Court further observed that having regard to Sections 49(2)(b), 59, 67A of the Electricity Supply Act, the Board has to follow particular method of accounting and it is on the basis of that method of accounting that the Board is required to generate surplus. The Court referring to Sections 59(2) and 67 of the Electricity Supply Act observed as under:

It appears to us that the Electricity (Supply) Act prescribes its own special principles of accounting to be followed by the Board. To begin with S.59(1) specifies 'operating maintenance and management 'expenses, taxes (if any) on income and profits,' 'depreciation and interest payable on all debentures, bonds and loans, as included in 'expenses properly chargeable to revenues'. **Section 59(2) further stipulates that in specifying the surplus, the Government shall have due regard to the availability of amounts accrued by way of depreciation and the liability for loan amortization. It also stipulates that a reasonable sum to contribute towards the cost of capital works and a reasonable sum by way of return on the capital provided by the State Government should be left in the surplus. This sub-section, therefore, makes it clear that the Board is to provide for (1) loan amortization (2) contribution towards the cost of capital works; (3) return on the capital.** We may not turn to S.67 which prescribes the priority to be observed by the Board in the matter of discharging the liabilities enumerated therein out of its revenues. First the operating maintenance and management expenses have to be met, next provision has to be made for payment of taxes on income and profits and thereafter various items of expenditure are mentioned in order of priority. If any amount is left after the discharge of the liabilities enumerated in S.67 it is further provided that the balance shall be utilised for the other purposes specified in S.59 in such manner as the

Board may decide.

(emphasis supplied)

Therefore, it is always permissible for the Electricity Board to aim at a higher percentage of profit in such a manner that a reasonable sum is available to contribute towards cost of capital works. Indeed, as seen from B.P.Ms.No.627, dt.14.12.1994 by levying development charges, the Board is trying to meeting a part of the expenditure for capital works. A reading of B.P.Ms.No.627, dt.14.12.1994 would show that the Board has not acted *ultra vires* while incorporating condition No.8, which enables collection of development charges from the consumers. Said proceedings reads as under:

The A.P.S.E.Board has to incur huge expenditure towards the cost of capital works annually, such as laying EHT/HT/LT Lines and establishment of Extra High Tension and 33 KV Sub-Stations and erection of distribution transformers to meet the growing demand of loads. The surplus available out of tariff revenues is not adequate to carry out the above capital works, which are essentially required. In order to compensate the huge expenditure to certain extent, it is desirable that a part of the cost of extension of works are collected from the prospective consumers, for whose benefit works are executed. This could be done by levying a one time charge as "Development Charges", which is non-refundable.

(emphasis supplied)

In **Southern Steel Ltd. v. A.P.State Electricity Board,** condition No.28 of the conditions of supply which requires every consumer to deposit cash equivalent to estimated three months' consumption charges was challenged as unreasonable and arbitrary. The challenge was repelled by a Division Bench of this Court. The matter was carried to Supreme Court. The Supreme Court heard the batch of Special Leave Petitions and Civil Appeals from the State of Andhra Pradesh, Bihar, Punjab, Rajasthan and Uttar Pradesh. In the decision marked as **Ferro Alloys Corpn. Ltd. v. A.P.State Electricity Board** (supra), the Supreme Court confirmed the judgment of this Court in **Southern Steel Ltd. v. A.P.State Electricity Board** (supra). The Supreme Court came to the conclusion that the deposit to be made by the consumer is not a mere deposit of money as in commercial transaction and that the object of security deposit is to ensure proper payment of bills. The Court ruled that the condition requiring payment of consumption deposit and additional deposit is neither unreasonable nor arbitrary. It is not *ultra vires* the powers of the Board under Section 49 of the Electricity Supply Act. In paragraph 121 of the Judgment (AIR) the Court enumerated certain factors having regard to which it was held that the condition is not unreasonable or unconscionable. The same reads as under.

In the light of the above discussion, we hold that the clause not providing for interest is neither arbitrary nor palpably unreasonable, nor even un-conscionable. In holding so we have regard to the following:

1. The consumer made the security deposit in consideration of the performance of his obligation for obtaining the service which is essential to him.

2. The electricity supply is made to the consumers on credit as has been noted above.

3. The billing time taken by the Board is to the advantage of the consumer.

4. Public revenues are blocked in generation, transmission and distribution of electricity for the purpose of supply. The Board pays interest on the loans borrowed by the Board. This is in order to perform public service. On those payments made by the Board it gets no interest from the consumer.

5. The Board needs back its blocked money to carry out public service with reasonable recompense.

6. The Board is not essentially a commercial organization to which the consumer has furnished the security to earn interest thereon.

The above factors would show that though Electricity Board functions not merely as profit making public sector undertaking, but with a social obligation and has to keep in view its obligations to generate, transmit and distribute electricity. It is also empowered to fix different rates of tariffs and to make good the money lost with reference to low category tariff consumers. It is always permissible for the Board to collect development charges keeping in view the future needs of the locality as well as future development needs of power system.

I n **Orissa State Electricity Board v. M/s.IPI Steel Limited** (supra) the Supreme Court considered the validity of proviso to Condition No.46 of conditions of supply prescribed by Orissa Board. Under said proviso though a consumer is not liable to pay minimum charges during the period of discontinuance/reduced supply, such consumer was made liable to pay the actual quantity of demand and/or energy supplied to consumer in lieu of contracted demand. The Supreme Court validated the provision. It was observed:

Normally speaking, a factory utilizes energy at a broadly constant level. May be, on certain occasions, whether on account of breakdowns, strikes or shutdowns or for other reasons the factory may not utilise energy at the requisite level over certain periods, but these are exceptions. Every factory expects to work normally. So does the Electricity Board expect – and accordingly produces energy required by the factory and keeps it in readiness for that factory – keeping it ready on tap, so to speak. As already emphasized, electricity once generated cannot be stored for future use. This is the reason and the justification for the demand charges and the manner of charging for it. There is yet another justification for this type of levy and it is this: demand charges and consumption charges are intended to defray different items. Broadly speaking, while demand charges are meant to defray the capital costs, consumption charges are supposed to meet the running charges. Every Electricity Board requires machinery, plant, equipment, sub-stations, transmission lines and so on, all of which require a huge capital outlay. **The Board like any other corporation has to raise funds for the purpose which means it has to obtain loans. The loans have to be repaid, and with interest. Provision has to be made for depreciation of machinery equipment and buildings. Plants, machines, stations and transmission lines have to be maintained, all of which requires a huge staff. It is to meet the capital outlay that demand charges are levied and collected whereas the**

consumption charges are levied and collected to meet the running charges.

(emphasis supplied)

The question whether condition 39 of the conditions of supply of the A.P.Board is *ultra vires* the powers of the Board under Section 49 of the Electricity Supply Act and whether such condition is violative of Sections 21 and 26 of the Electricity Act was considered by the Supreme Court in **M/s.Hyderabad Vanaspathi Ltd. v. A.P.State Electricity Board** (supra). Condition No.39 provided the procedure to be followed by the officials of the Board in the cases of malpractices and pilferage of electricity by consumer. Dealing with the nature of the revised conditions of supply it was held:

We have already seen that Section 49 of the Supply Act empowers the Board to prescribe such terms and conditions as it thinks fit for supply electricity to any person other than a licensee. The section empowers the Board also to frame uniform tariffs for such supply. Under Section 79(j) the Board could have made regulation therefor but admittedly no regulation has so far been made by the Board. The Terms and Conditions of Supply were notified in B.P.Ms.no.690, dated 17.9.1975 in exercise of the powers conferred by Section 49 of the Supply Act. They came into effect from 20.10.1975. There wee made applicable to all consumers availing supply of Electricity from the Board. **The section in the Act does not require the Board to enter into a contract with individual consumer. Even in the absence of an individual contract, the terms and Conditions of Supply notified by the Board will be applicable to the consumer and he will be bound by them. Probably in order to avoid any possible plea by the consumer that he had no knowledge of the terms and Conditions of Supply, agreements in writing are entered with each consumer. That will not make the terms purely contractual. The Board in performance of a statutory duty supplied energy on certain specific terms and conditions framed in exercise of a statutory power. Undoubtedly the terms and conditions are statutory in character and they cannot be said to be purely contractual.**

(emphasis supplied)

A submission was made before the Supreme Court that condition No.39 deviates from the provisions of Electricity Act and the Rules. The submission was repelled by the Hon'ble Court holding thus:

We have carefully perused the provisions of the Electricity Act and we find that those provisions provide for a different situation. Clause 39 will come into play whenever there is malpractice or pilferage on the part of the consumer or a fraud played by the consumer. The Electrical Inspector has no jurisdiction to deal with those matters. He can be approached only when thee is a defective meter or any defect in wires, fittings, works or apparatus. As regards Cl.(VI) of the Schedule to the Electricity Act, it is not applicable unless distribution mains have been laid down under the provisions of Clause (IV) or Clause (V) and the supply of energy through those mains or any of them has commenced. The provisions of Section2 6 of the Supply Act exclude the applicability of Clauses (I) to (V) of the schedule to the Board. Hence, Cl.(VI) of the schedule cannot by itself apply and that is why the second proviso to Section 26 clarifies the position that the provisions of Clause (VI) of the schedule shall apply to the Board in respect of that area only where distribution mains have been laid by the Board and the supply of energy through any of them has commenced.

In **KCP Ltd., Guntur v. A.P.State Electricity Board** (supra) the consumer questioned before this Court legality and validity of levy and collection of amounts towards service line charges and service connection charges for releasing additional load as well as KVA charges. The mode of computation of service line charges as per B.P.Ms.No.1160, dt.3.11.1989 was also challenged. It was contended that under the Electricity Act and its schedules, the Electricity Supply Act and its schedules, and the Rules made thereunder and Conditions of Supply notified by the Board, a consumer is required to pay service line charges only towards cost of levying such lines or to alter existing service line as may be necessary to be laid upon the property in respect of which requisition is made excluding first 100 feet from the licensee's distributing means. If any other charge is levied, the same would be *ultra vires* the powers of the Board under Sections 49 and 59 of the Electricity Supply Act. The Court referred to various decisions of the Supreme Court in **Bisra Lime Stone Company Limited v. Orissa State Electricity Board, Jagadamba Paper Industries (P) Ltd. v. Haryana State Electricity Board Rohtas Industries v. Bihar State Electricity Board Kerala State Electricty Board v. S.N.Govinda Prabhu (supra), Dr.Smt.Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Seethapur Hyderabad Engineering Works Ltd v. A.P.State Electricity Board, Bihar State Electricity Board v. M/s.Green Rubber Industries, Sri Seetharam Sugar Company Ltd v. Union of India Hindustan Zinc Ltd. v. A.P.State Electricity Board, Bihar State Electricity Board v. Usha Martin Industries,** and **Hyderabad Vanaspati Ltd. v. A.P.State Electricity Board** (supra). Dealing with the rationale behind levying impugned charges, the Court observed:

For the purpose of generating electricity, the Board shall have to establish generating stations which involves a huge capital outlay and lay transmission lines for supply of such energy to the sub-stations. Again sub-stations will have to be erected and distribution lines will have to be laid from the subs-stations to the consumers. This naturally involves huge expenditure. Such expenditure shall have to be collected only from the consumers. It cannot be expected that the Board could generate funds for meeting its obligations except in the manner provided in the Act. When a consumer makes a requisition for supply of electrical energy, in a given situation where the transmission lines are already erected and the distributing lines are laid, the Board may without further addition or modification to the existing infrastructure be able to deliver such energy to the consumer. In some cases, where a consumer requisitions electricity supply may involve laying of transmission and distribution lines. **If the argument of the petitioner is accepted, in the former class of cases the consumers would get the supply at a cheaper cost when compared to the later class of consumers which would result in inequitable apportionment of the cost of the infrastructure. In such an eventuality, the industrial growth would be limited in and around generating stations only. Thus, with a view to develop the distribution system in all parts of the State, it is necessary that the Board should charge the requisitionists in an equal manner so that each of the consumer requisitioning supply or additional supply would contribute to the capital expenditure to be expended by the Board for additional generation, erection of transmission lines and substations besides laying distribution lines to the consumer's point of supply. Therefore the method adopted by the Board in distributing the capital expenditure on all consumers in a rational manner on the basis of the demand requisitioned cannot be termed as irrational or arbitrary. It does not lie on the mouth of the consumer that the distribution lines are already laid and as such there is no obligation to make any payment to the Board to extending supply or additional supply it cannot be left to**

chance.

(emphasis supplied)

After referring to **Govinda Prabhu Case** and **Hindustan Zinc Ltd. v. A.P.S.E.B** (supra) this Court concluded:

The said principle was reiterated in Hindustan Zinc Ltd. v. Andhra Pradesh State Electricity Board (supra) wherein it was held that even where the Board generate surplus such profit is made not merely for the sake of profit but for the purpose of better discharge of the obligation of the Board and when the Board acted as such, it cannot be said that the Public Enterprise had acted beyond its authority. **Though the aforesaid judgments rendered by the Supreme Court while examining the tariff revision made by the Electricity Board but the principle underlying therein will equally apply to the facts of the present case. Thus, in my considered view the Board is entitled to collect from the consumers the pro rata capital cost incurred or proposed to be incurred for expanding its facilities from the prospective or existing consumers seeking loads and the same can neither be deemed as irrational nor arbitrary and it is neither confiscatory nor penal. But on the other hand, it is an obligation cast on the consumers to contribute to the Board to enable it to discharge its statutory obligations with which it is charged.** Thus viewed from this perspective the charges demanded by the respondent-Board under B.P.Ms.No.1160, dated 3.11.1989, though styled as service line charges is nothing but collection of pro rata capital cost on the basis of demand requisitioned, which the Board is lawfully entitled to collect from its consumers in exercise of its power by framing terms and conditions of supply under Section 49 of the Act.

(emphasis supplied)

After perusing the judgment of this Court in **KCP Ltd., Guntur v. A.P.State Electricity Board** (supra), I feel compelled to countenance the submission of the learned counsel for the Board Sri N.Subba Reddy that the reasoning of this Court in **KCP Ltd., Guntur v. A.P.State Electricity Board** (supra) is equally applicable to the present case in upholding condition No.8 of conditions of supply. The observations extracted hereinabove would support the view that Condition No.8 imposing development charges is not *ultra vires* the provisions of Sections 49 and 59 of the Electricity Supply Act, and the Electricity Act and the Schedule to Electricity Act. It is also brought to my notice that all other State Electricity Boards/Transmission Corporations are also collecting development charges to meet a part of capital cost involved for generation/transmission of power. Further, in my considered view while testing the actions of the Statutory Board or Statutory Company, like Electricity Board/Transmission Corporation, the Court should take a broader view. The powers conferred on the Board should be interpreted as involving all aspects in such a manner that the Board would be able to discharge its duties as expected by the Legislature, and not to subvert Legislative intent.

In the result, for the above reasons, I do not see any merit in the Writ Petitions and all the Writ Petitions are accordingly dismissed with costs.

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(V.V.S.RAO, J)

12.8.2004

Note: LR copy be marked

B/O

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To

One fair copy to the Hon'ble Mr.Justice V.V.S.Rao (for his Lordships kind perusal)

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